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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/988,340	11/19/2001	Henry E. Agbaje	MTC6802 (39-21 (53156A))	8785
321	7590	05/20/2004	EXAMINER	
SENNIGER POWERS LEAVITT AND ROEDEL ONE METROPOLITAN SQUARE 16TH FLOOR ST LOUIS, MO 63102			CLARDY, S	
			ART UNIT	PAPER NUMBER
			1616	

DATE MAILED: 05/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/988,340	AGBAJE ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	S. Mark Clardy	1616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 24 February 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,3-8,10,12-47,49 and 51-55 is/are pending in the application.
- 4a) Of the above claim(s) 3-8,10,12-40,42-47,49 and 51-55 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

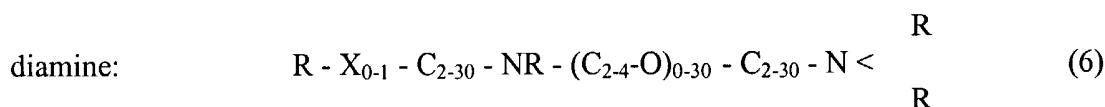
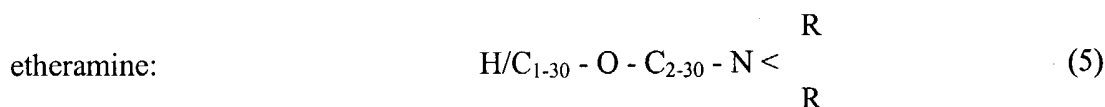
#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                                 |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| Paper No(s)/Mail Date <u>3/29/2004</u>   | <del>6) <input checked="" type="checkbox"/> Other: please resend IDS (form only).</del> |

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Claims 1, 3-8, 10, 12-47, 49, and 51-55 are pending in this application which is a continuation-in-part of SN 09/926,521, which was filed under 35 USC 371 as the national stage application of PCT/US01/16550, filed May 21, 2001, which claims the benefit under 35 USC 119(e) of US Provisional Applications No. 60/206,628 (May 24, 2000), 60/205,524 (May 19, 2000), 60/273,234 (March 2, 2001), and 60/274,368 (March 8, 2001).

In the response filed June 30, 2003, applicants elected the invention of Group I, drawn to dual component surfactant compositions, and the species comprising the etheramine of formula (5) and the diamine of formula (6):



wherein: each R group above may be -H, -C<sub>1-30</sub>, or -(C<sub>2-4</sub>-O)<sub>1-50</sub> - H/C<sub>1-4</sub>; and

X is -O-, -N(C<sub>2-4</sub>)-, -CO-, -COO-, -OCO-, -N(H/C)-CO-, -CONR-, -S-, -SO-, -SO<sub>2</sub>-.

Claims 3-8, 10, 12-40, 42-47, 49, and 51-55 are now withdrawn from consideration as being drawn to an invention nonelected without traverse; claims 8, 10, 47, and 49 have been added to the list of previously nonelected claims because they now depend from non-elected claims. No claims are now drawn to a nonelected species. Claims 2, 9, 11, 48, and 50 have been canceled.

Again, upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after

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the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Claims 1 and 41 have been examined only insofar as they read on the elected species.

The objections of duplicate claims and the rejection under 35 U.S.C. 112 are withdrawn in response to applicants' amendment. Applicants' arguments with respect to the art rejections are nonpersuasive.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

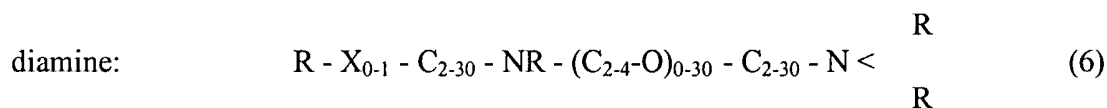
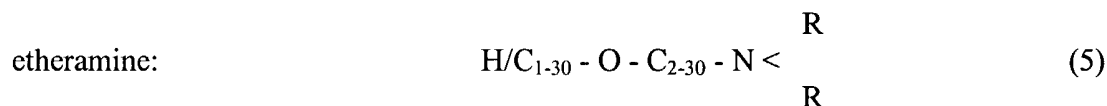
The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1 and 41 are again rejected under 35 U.S.C. 102(a) and (e) as being anticipated by Crutcher (US 6,080,713).

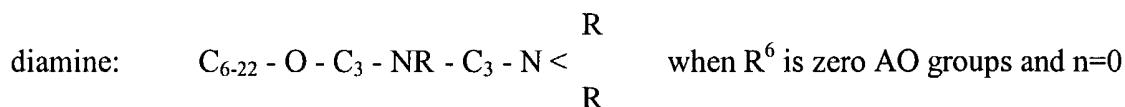
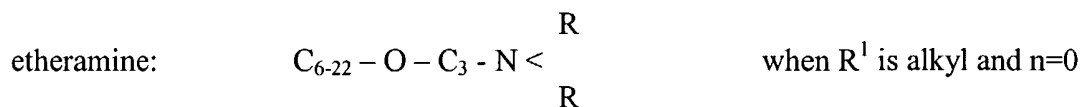
Crutcher, again, teaches surfactant compositions for cleaning laundry comprising 95-50% of a nonionic water soluble surfactant and 5 to 50% of a polyalkoxylated amine (col 2, lines 39-

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54) or diamine (lines 55-66), or mixtures thereof (lines 66-67). Among the nonionic water soluble surfactants are alkoxyated nonionic diamines (col 4, lines 38-41; col 5, lines 46-61). Note that alkoxyated diamines are disclosed as being either of the second amine structure in column 2, or as one of the three preferred alkoxyated nonionic surfactants in column 5. While the exemplified nonionic amine is an ethoxyated nonylphenol and not applicants' elected diamine, the disclosure points to the nonionic alkoxyated diamines as one of the three preferred nonionic surfactants. Alternatively, it is noted that the amine surfactant component of Crutcher may be either applicants' etheramines, or applicants' diamines, or both (i.e., "mixtures thereof"; col 2, lines 66-67, and claim 1). Comparing applicants' etheramines and diamines with those of Crutcher, the following overlap is noted in the generic structures:

Applicants':

wherein each R group above may be -H, -C<sub>1-30</sub>, or -(C<sub>2-4</sub>-O)<sub>1-50</sub> - H/C<sub>1-4</sub>, and X is -O-, etc.

Crutcher: (see structures in column 2):

wherein each R group above may be -H or -(Alk-O)<sub>1-15</sub>-H.

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Inasmuch as applicants' elected species is generic (i.e., not a pair of specific amine compounds), the generic disclosure of Crutcher reads on applicants' generic claims as currently drafted. The discussion concerning nonelected components within (a) – (h) of claim 1 is irrelevant in view of the election of species limiting the examination to compounds with applicants' generic structures (5) and (6).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 41 are again alternatively rejected under 35 U.S.C. 103(a) as being unpatentable over Crutcher, discussed above.

Again, it would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made to have combined applicants' elected etheramine and diamine surfactants because these components were known to be useful in combination for laundry detergents. It is immaterial whether the cited prior art is nonanalogous when the components of the compositions are the same. As noted above, there is extensive overlap between applicants' elected generic etheramines and diamines and those of Crutcher. There is sufficient motivation in Crutcher to select a combination of the etheramines and diamines (again, see claim 1, "or mixtures thereof"). Again, there is no reason for discussing applicants' extensive list of options for the (a)–(h) structures since only two therein (compounds of formulas 5 and 6) are of any interest following the election of species, and these structures are found within the teachings of Crutcher.

Again, no unobvious or unexpected results are noted; no claim is allowed.

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**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

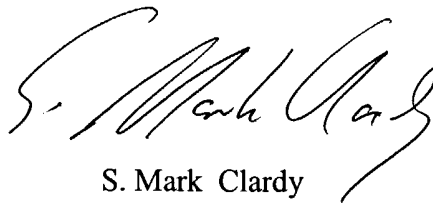
This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103c and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to S. Mark Clardy whose telephone number is 571-272-0611. The examiner can normally be reached on 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page can be reached on 571-272-0602. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "S. Mark Clardy", written in a cursive style.

S. Mark Clardy  
Primary Examiner  
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May 10, 2004